IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(1) C.W.P. No. 6129 of 2007

Ramo Bai and others.

..... Petitioners through
Shri Anil Kshetarpal,
Advocate.

Versus

State of Haryana and others.

..... Respondents through Nemo.

(2) C.W.P. No. 7122 of 2007

Lilu Ram and others.

..... Petitioners through
Shri Anil Kshetarpal,
Advocate.

Versus

State of Haryana and others.

..... Respondents through Nemo.

Date of Decision: 17.5.2007

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

This judgment will dispose of the above mentioned two writ

petitions as the common questions of law and facts are involved therein.

The petitioners have prayed for quashing of the respondents' decisions dated 18.3.1992 (Annexure P23) and 12.3.1993 (Annexure P24), which are the policies framed by them to rehabilitate the persons, who have been ousted from their land on account of it being acquired pursuant to the provisions of the Land Acquisition Act,1894 (for short, `the Act'). A further prayer has also been made for quashing of the letters (Annexure P25 dated 21.3.2007 in C.W.P.No.6129 of 2007 and Annexure P14 dated 13.2.2007 in C.W.P. No.7122 of 2007) by which one plot measuring 500 sq.yards has been allotted to each set of the petitioners. The primary reason for such a prayer is that they, being the co-sharers, were entitled to a separate plot of 500 sq.yards each.

The petitioners were co-sharers in the land which was subjected to acquisition in the proceedings initiated in the year 1992 and culminated on 19.1.1995 when the award was announced. In the said acquisition, 71 kanals of land belonging to the petitioners in C.W.P. No. 6129 of 2007 and 11 kanals and 16 marlas of land of the petitioners in C.W.P.No.7122 of 2007 were acquired by the State Government for development of residential Sectors by the Haryana Urban Development Authority (hereinafter described as `the HUDA'). In the year 2003, the land measuring 54 kanals belonging to the petitioners in C.W.P.No.6129 of 2007 and a big chunk of land of the petitioners in C.W.P. No.7122 of 2007 were again notified along with the lands of others for acquisition for a public purpose, namely, for residential and commercial Sectors 3 and 5, Hisar, for which they had received notices under Section 9 of the Act (Annexures P16 to 19 in

C.W.P.No.6129 of 2007 and Annexures P15 to P22 in C.W.P. No.7122 of 2007).

The HUDA, in order to rehabilitate the oustees whose lands had been acquired for development of various Urban Estates in the State, formulated a policy for allotment of residential plots/ commercial sites to them and circulated the same vide letter dated 18.3.1992. The relevant conditions laid down for such allotment are reproduced below:-

" (i) Plots to the oustees would be offered if the land proposed to be acquired is under the ownership of the oustee prior to the publication of notification under Section 4 of the Land Acquisition Act,1894 and if 75% or more of the total land owned by the land owners in that sector is acquired.

(ii)Oustees whose land acquired is:

(a) Less than 500 sq. yards should be offered 50 sq.yards plot;

(b) Between 500 sq.yards and one acre should be offered a plot of 250 sq.yards.;

© From one acre and above would be offered a plot of 500 sq.yards or where 500 sq. yads plots are not provided in the layout plan, two plots of 250 sq.yards each may be given.

(iii)The above policy shall also apply in case there are a number of co-sharers for the land which has been acquired. If the acquired land is more than one acre, then for the purpose of granting benefits under this policy, the determining factor would be the area owned by each co-

sharer respectively as per his/ her share in the joint holding. In case the acquired land of the co-sharer is less than one acre, only one plot of 250 sq.yards would be allotted in the joint name of the co-sharers.

(iv) If the land of any land owner is released from acquisition, he/ she would not be eligible to avail of any benefit under this policy (irrespective of the area of land released)."

The aforementioned policy was modified by the HUDA and the modifications were circulated vide letter dated 12.3.1993, the relevant portion of which reads as under:-

"(i) Benefit under oustees policy is not to be allowed to those oustees who have got residential/ commercial plots from HUDA in that Urban Estate. However, this restriction will not apply to those oustees who might have acquired property there otherwise.

(ii) Benefit under oustees policy shall be restricted to one plot according to the size of the holding irrespective of the number of co-sharers."

Initially, the petitioners applied for allotment of individual plots. The petitioners in C.W.P.No.7122 of 2007 were even advised to deposit separate earnest money, which they did. But, later on, the petitioners in both the writ petitions, being co-sharers, were required to file a joint application for allotment of one plot keeping in view the provisions of the above reproduced policies. Upon completion of necessary formalities, a plot measuring 500 sq.yards has been allotted to each set of the

petitioners.

To support their prayer for quashing the offending provisions of the policies dated 18.3.1992 and 12.3.1993 and for issuance of a writ of mandamus directing the respondents to allot individual plots of 500 sq.yards to them on account of the fact that a large tract of their land measuring more than one acre each has been acquired, the petitioners have placed reliance on a decision of the Supreme Court in Civil Appeal No.168 of 1983-State of Punjab and others Versus Karam Singh and others, decided on 11.9.1997 wherein a policy similar to the one formulated by the respondents herein was commented upon by their Lordships and while upholding the judgment of this Court, the land- owners whose land was acquired, were held entitled to allotment of a separate plot according to the area of entitlement of each. In other words, their prayer is that the respondents may be directed to allot a plot of 500 sq.yards to each of them irrespective of the number of co-sharers, who owned the land.

We have heard the learned counsel for the petitioners and have carefully gone through the whole record.

On the first blush of the matter and after taking into consideration the ratio of the aforementioned judgment of the Supreme Court, it seems that there is force in the claim of the petitioners, but on a closer examination, we find that their Lordships were dealing with a scheme framed by the State of Punjab on 7.4.1974 and modified on 29.9.1991 and not the policies of 1992 and 1993 formulated by the HUDA. Therefore, the petitioners cannot be given any benefit on the basis of the judgment of the Supreme Court in Civil Appeal No.168 of 1983-State of Punjab and others

Versus Karam Singh and others, decided on 11.9.1997.

It is to be noticed that policy dated 18.3.1992 was formulated primarily with the objective to rehabilitate the oustees as a benign measure by allotting residential plots and commercial sites in various Urban Estates set up by the HUDA. One is not to lose sight of the fact that when the lands are acquired, compensation is paid to the land-owners and it is a purely a benevolent act on the part of the State or its instrumentality/ agency when it formulates a scheme to rehabilitate the oustees. In our considered view, there is no vested right which accrues to a person whose land is acquired to get an alternative accommodation as he has been adequately compensated for the same. The policies to rehabilitate the oustees are formulated keeping in view the development activities of the State and its instrumentalities/ agencies.

An analysis of Clause (iii) of the policy of 1992 reveals that the acquisition of land of the co-sharers, if less than one acre, would entitle them for allotment of one plot of 250 sq.yards which has to be made jointly in the name of the co-sharers. By no stretch of imagination, it can be said that in case, the land acquired is more than one acre, then all co-sharers would be entitled to a plot measuring 500 sq.yards each in his individual name as the learned counsel for the petitioners wanted us to read.

The policy of 1992 was further modified by the policy of 1993, the relevant portion of which has been reproduced hereinabove, and a clear departure has been made with regard to the allotment of plots to the co-sharers and it was specifically laid down that the benefit under the oustees policy shall be restricted to one plot according to the size of the holding

irrespective of the number of co-sharers. It was further stipulated that this benefit is not to be allowed to those oustees who have got residential/ commercial plots from the HUDA in that Urban Estate with an exception that this restriction shall not apply to those oustees, who have acquired property there otherwise.

In our opinion, to the aforementioned provisions of the policies of 1992 and 1993, are germane, various factors, viz, present day pressure on the land, its paucity and the fact that the acquired land is to be used for many development purposes. The intent of such a policy cannot be to grant a bonanza to the oustees. Its sole purpose should be to rehabilitate them.

In view of the above, we hold that the provisions of the policies of 1992 and 1993 are neither offensive nor oppressive or discriminatory and there is no ground to quash the same.

Accordingly, we do not find any illegality in the action of the authorities of the HUDA to allot one plot of 500 sq. yards to each set of the petitioners.

In the result, the writ petitions are dismissed.

(Vijender Jain)
Chief Justice

May 17,2007
"SCM"

(Mahesh Grover)
Judge